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INTEREST COALITION ON  
**ENERGY**

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September 12, 1996

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On Behalf of the Public Interest Coalition on Energy  
we are Submitting the attached comments.

**Coalition Members**

Arizona Association of  
Industries

National Federation of  
Independent Businesses

Arizona Hotel & Motel  
Association, Inc.

Arizona Retailers  
Association


Arizona Multihousing  
Association

Arizona Food Marketing  
Alliance

  
Nancy Russell for the Coalition

Arizona Corporation Commission  
**DOCKETED**

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**RENZ D. JENNINGS**  
Chairman  
**MARCIA WEEKS**  
Commissioner  
**CARL J. KUNASEK**  
Commissioner

Arizona Corporation Commission

**DOCKETED**

SEP 12 1996

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IN THE MATTER OF:  
RESTRUCTURING OF ARIZONA'S  
ELECTRIC INDUSTRY

DOCKET NO. U-0000-94-165

THE ARIZONA ASSOCIATION  
OF INDUSTRIES, THE  
ARIZONA FOOD MARKETING  
ALLIANCE, THE ARIZONA  
MULTI HOUSING  
ASSOCIATION, THE ARIZONA  
HOTEL AND MOTEL  
ASSOCIATION, THE ARIZONA  
RETAILERS ASSOCIATION  
AND THE NATIONAL  
FEDERATION OF  
INDEPENDENT BUSINESS  
RESPECTFULLY PROVIDE  
THESE COMMENTS ON THE  
ARIZONA CORPORATION  
COMMISSION'S DRAFT RULE  
ON ELECTRIC INDUSTRY  
RESTRUCTURING

**Introductory Statement.**

The above listed Arizona based trade associations formed a coalition (Coalition) in 1996 for the purpose of promoting competition in the electric utility industry in Arizona. This Coalition is made up entirely of customers located throughout Arizona who are served by every electric utility in Arizona. The Coalition is known as

the Public Interest Coalition on Energy and includes the following associations, the Arizona Association of Industries, the Arizona Food Marketing Alliance, the Arizona Multihousing Association, the Arizona Hotel and Motel Association, the Arizona Retailers Association and the Arizona Chapter of the National Federation of Independent Business (hereafter referred to as Coalition). The Coalition jointly provided comments to the questions posed by the staff of the Arizona Corporation Commission (ACC) on June 28, 1996 and participated in the ACC workshop Aug 12. The Coalition represents in excess 12,000 members and many more electricity customers located throughout Arizona. The Coalition compliments the ACC Staff for drafting its proposed rule in an expeditious manner and supports the spirit and general direction of the draft rule prepared by the ACC Staff in this docket. The study and thoughtfulness that has been conducted under the auspices of the ACC proceedings in the past 2 years will assist all stakeholders in moving this process forward.

In summary, the Staff rule embodies several key features. It actively embraces and advocates competition for all customers in Arizona. It advocates the so called "bi-lateral" contract approach as the primary new electric market structure. The Staff proposal recognizes that a thoughtful transition to competition is necessary and that a phase-in to competition rather than an immediate transition is preferable.

In closing, the Coalition believes that the ACC has done a commendable job of studying the issues associated with competition in the electric industry. The Coalition supports the ACC Staff objectives and the draft rule's attempts to institutionalize a meaningful transition to retail competition in the electric industry in Arizona. Questions in reference to this proposal should be forwarded to the Coalition's

Project Manager, Mr. Scott A. Gutting c/o The Arizona Association of Industries at 2025 N. Third Street, Suite 175 Phoenix, Arizona 85004 or (602) 252-9415.

While the Coalition supports the overall guidance the ACC Staff provides in the draft rule the Coalition recommends the following specific modifications to the proposed rule. Only the sections in which the Coalition had comments at this time are listed. It is the Coalition's understanding that prior to a final rule-making, an additional public comment period will be held. The Coalition may have additional comments at that time.

***R14-2-xxx1. Definition.***

Add the following definition for Eligible demand. "Eligible demand" means the total customer kW demand which an Affected Utility must make available to be provided by competitive generation supply under the terms of this Article, or the total customer kW demand actually provided by competitive generation supply in an Affected Utility's distribution service territory, whichever is greater.

Please see additional comments of Asarco, BHP and Cyprus Minerals.

***R14-2-xxx3. Certificate of Convenience and Necessity.***

The Coalition supports the comments in this section that are filed by Asarco, BHP and Cyprus Minerals.

**R14-2-xxx4. Competitive Phases.**

A. The Coalition requests that the initial phase of competition change as follows: "January 1, 1999" to "January 1, 1998". The public interest will be better served by making the benefits of retail access available at the earliest achievable date.

1. Limiting participation in the competitive market by customers with contract demands of 3 MW or greater may introduce arbitrary impediments to market participation by customers who can otherwise benefit from competition. Such customers may be foreclosed from full participation in the market if the proposed "50 percent of eligible demand" ceiling is reached -- even if the overall eligible demand level is not fully utilized. The Coalition suggests that such market distortions are undesirable and, therefore implementation would be more efficiently achieved if R-14-2xxx4.(A)(1) were eliminated. The requirement in (A)(2) that at least 10 percent of the eligible demand be reserved for residential consumers adequately addresses the objective of diversity in participation.

If, notwithstanding the foregoing, a ceiling is to be imposed on large customer participation, The Parties strongly urge that R-14-2xxx.(A)(1) be revised to read as follows:

No more than one-half of the eligible demand may be procured in transactions involving individual contract demands exceeding 3 MW at single delivery points.

The Coalition supports additional comments on this issue of Asarco, BHP and Cyprus Minerals.

- B. The Coalition requests that the second phase-in date be: "January 1, 2001" to "January 1, 2000". The public interest will be better served by making the benefits of greater retail access available at an earlier date.
- C. [Change "available kw" to "eligible demand".]
- D. The Coalition requests that full retail access be available: "January 1, 2002. The public interest will be better served by making the benefits of full retail access available at an earlier date.
- G. [Modify (3) to read as follows]:
  - 3. Each Affected Utility shall make at least 5 percent of its 1995 system retail peak demand available for competitive procurement under this Buy-through mechanism. Buy-through mechanisms in place prior to adoption of this rule shall not be included as part of

the calculation of an Affected Utility's 5 percent minimum requirement.

[Add]:

6. Nothing in this Article shall limit the ability of parties to conduct buy-through transactions under agreements in place prior to adoption of this rule nor the ability of parties selected to participate in the buy through program to aggregate their respective buy through loads if they so desire.

If the ACC adopts the Coalitions comments with respect to moving the phase-in dates forward, the buy through process should also be moved forward concurrently.

***R14-2-xxx7. Recovery of Stranded Investment of Affected Utilities.***

D. [Strike "exit fees"]

***Explanation:***

The mechanism for potential recovery of stranded investment is adequately addressed in the reference to "distribution charges or other means" in R-2-xxx7.(D). Exit fees are

anti-competitive in nature and should not be considered as a mandated mechanism for recovery of potential stranded investment. However, voluntary payment of exit fees *in lieu of* distribution charges or other means should be permitted for recovery of potential stranded investment. This option should be addressed in future ACC proceedings regarding the recovery of stranded investment.

F. The Coalition recognizes and supports the policy inherent in R14-2-xxx7.(F) that if stranded investment is to be recovered, it should be restricted to transactions which occur in the competitive market under provisions of the Article. We believe it is helpful to clarify that the (potential) recovery of stranded investment is to be tied to competitive market *transactions* rather than to *customers* (per se) who participate in the competitive market, because many customers may choose a *combination* of supply options -- including utility purchases, self-generation, DSM, etc.-- of which competitive generation is but one component. Fairness and consistency require that only the *portion* of (utility) demand reduction involving retail access purchases should be subject to any stranded investment charge. The Coalition also supports the comments of Asarco, BHP and Cyprus. The following substitute for (F) provides appropriate clarification and emphasis.

**Substitute F.**

Stranded investment may only be recovered from customer purchases



made in the competitive market using the retail access provisions of this Article. Any reduction in electricity purchases from Affected Utilities which is a result of self-generation, buy-throughs, demand-side management, or other demand reductions attributable to any reason other than the retail access provisions of this Article, shall not be used to calculate or to recover any stranded investment from a customer.

***R14-2-xxx9. Solar Portfolio Standard***

The requirement that competitive suppliers obtain 1 percent of their energy resources from new solar resources in 1999 and 2 percent in 2002 will unduly burden the competitive market. As described in comment filed June 28th the Coalition recommends that a voluntary "green tariff" approach be implemented. In addition the Coalition is concerned that the limitation to resources built between 1997 and 1999 if adopted will effectively eliminate the ability of customers to participate in direct access markets because it is unlikely that solar electric resources could be built in time to meet the requirement.

***R14-2-xxx12. Rates***

- E. The Coalition supports the comments of Asarco, BHP and Cyprus regarding this section. In a competitive market, there is no compelling

rationale for prohibiting sales made below marginal cost. The Parties recommend that the phrase "provided that the price is not less than the marginal cost of providing the service" be eliminated.

The attached responses are respectfully submitted this 25th day of June, 1996.

National Federation of  
Independent Business

By *Samantha Pearl*  
Samantha Pearl

Arizona Food Marketing Alliance

By *Dwayne Richard*  
Dwayne Richard

Arizona Multihousing Association

By *Suzanne P. Gilstrap*  
Suzanne Gilstrap

Arizona Hotel and Motel Association

By *Margaret M. Walker*  
Margaret Walker

Arizona Association of Industries

By *Nancy Russell*  
Nancy Russell

Arizona Retailers Association

By *George E. Allen*  
George E. Allen

ENCLOSURE